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FUJIAN JINHUA INTEGRATED CIRCUIT CO., LTD.

12
13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN FRANCISCO DIVISION**

16 UNITED STATES OF AMERICA,
17
18 Plaintiff,
19 v.
20 UNITED MICROELECTRONICS
CORPORATION, et al.,
21 Defendants.

CASE NO.: 3:18-cr-00465-MMC

**DECLARATION OF YU CHEN FU IN
SUPPORT OF DEFENDANT FUJIAN
JINHUA INTEGRATED CIRCUIT
CO., LTD.'S MOTION *IN LIMINE* NO.
6 TO EXCLUDE HEARSAY
STATEMENTS OF PURPORTED CO-
CONSPIRATORS AND EMPLOYEES**

Judge: The Honorable Maxine M. Chesney
Trial Date: February 14, 2022

Hearing Date: January 18, 2022
Hearing Time: 10:00 a.m.

DECLARATION OF YU CHEN FU

I, Yu Chen Fu declare and state as follows:

1. I am the head of Human Resources at Defendant Fujian Jinhua Integrated Circuit Co., Ltd. ("Jinhua"). I submit this declaration in support of Jinhua's Motion *In Limine* No. 6 for an Order To Exclude Hearsay Statements Of Purported Co-Conspirators (the "Motion"). This declaration is based upon my personal knowledge, and, if called to testify, I could and would do so competently as to the matters set forth herein.

2. It is my understanding that some Taiwanese companies, like UMC, did not pay competitive salaries as compared to salaries paid by Japanese, Korean companies and other Taiwanese companies, like Micron. UMC wanted to recruit skilled DRAM engineers for its project, and thus, was looking at engineers from Japan and Korea. These engineers would be unwilling to work at UMC for the salary UMC would offer, so UMC asked Jinhua to provide additional funding to help recruit and retain them. Jinhua agreed and agreed to pay certain newly recruited UMC engineers. UMC, as their employer, paid their salary and benefits. The UMC employees who participated in Jinhua's "R&D Talent Retention" program were primarily engineers recruited from other companies, including some from Micron and other companies in Korea, Taiwan and mainland China. Jinhua did not intend to form an employer-employee relationship with these individuals.

3. Jinhua did not impose any requirements on these individuals' working hours, locations, or responsibilities. There were no attendance requirements imposed by Jinhua—the individuals did not need to request vacation or leave of absence from Jinhua. These individuals did not work under the supervision of anyone at Jinhua, or work at Jinhua's direction. They did not report to anyone at Jinhua. They were not disciplined by, and did not receive performance reviews from, Jinhua. They did not have Jinhua employee numbers, employee cards, or offices. They, at all times, answered to UMC. They did not have Jinhua email accounts. And Jinhua did not provide any of the "social insurances" that employees are entitled to under Chinese labor law (including "five insurances", namely medical insurance, pension, unemployment insurance, work injury

1 insurance, reproductive insurance, and “one stipend”, namely housing stipend). Jinhua did not
2 provide them with office space, a computer, or any equipment.

3 4. Neil Lee was hired by Jinhua as an employee in December 2019.
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1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct. Executed on this 1st day of December, 2021 in Jinjiang City, Fujian Province,
3 China.

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5 By:  _____
6 Yu Chen Fu

7 **SIGNATURE ATTESTATION**

8 Pursuant to Civil Local Rule 5-1(i), I attest under penalty of perjury that concurrence in the
9 filing of this document has been obtained from any other signatory to this document.

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11 _____
12 /s/ Jack P. DiCanio
13 Jack P. DiCanio
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